



THE CENTER FOR FOOD SAFETY

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Docket No. APHIS-2006-0140
Regulatory Analysis and Development
PPD, APHIS
Station 3A-03.8
4700 River Road
Unit 118
Riverdale, MD 20737-1238

Pursuant the USDA's September 8, 2006, Federal Register notice, 71 Fed. Reg. 53076, the Center for Food Safety (CFS) submits the following supplement to its previously filed comments concerning the inadequacy of the agency's Environmental Assessment (EA) accompanying the Bayer CropScience petition for deregulation.

The EA accompanying the LL601 deregulation petition makes certain assertions about the continuing marketability of organic rice that has been contaminated with LL601 rice. (EA at 11-12). In the EA, USDA asserts that "[t]he presence of a detectable residue of a product of excluded methods alone does not necessarily constitute a violation fo the National Organic Program." (EA at 11). Such an assertion is in direct conflict with pronouncements made by the USDA National Organic Program (NOP) concerning LL601.

On September 18, 2006, an e-mail from the Associate Deputy Administrator for NOP to the Texas Department of Agriculture organic program states:

In the event that a producer or handler tests rice and finds presence of genetically engineered materials, the rice will not be considered organic. However, if the certified operation planted what they understood to be non-GE rice, the certification status of the farm itself will not be affected. See Attach. (Emphasis added).¹

¹ CFS's submission of this matter is as timely as possible. CFS only obtained a copy of this e-mail on October 11, 2006, and as such could not include this matter in the comments it submitted on October 10, 2006.

This pronouncement has had a significant affect on the organic rice market and has led to lost sales and increased testing costs among organic producers.

Accordingly, the basis under which USDA/APHIS suggested that the LL601 rice will not have a significant impact on organic farming is incorrect. Moreover, the contradiction between USDA/APHIS and the NOP's pronouncement establishes yet another reason why the EA is inadequate.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joseph Mendelson III".

Joseph Mendelson III
Legal Director

Leslie McKinnon

From: Bradley, Mark [Mark.Bradley@usda.gov]
Sent: Monday, September 18, 2006 3:55 PM
To: Leslie McKinnon
Cc: Robinson, Barbara -AMS; Wilson, Demaris
Subject: RE: Organic Rice

Dear Leslie,

We have received a number of questions from organic rice producers. While USDA continues to investigate the situation, the following guidance is available that we would like for you to share with your producers.

In the event that a producer or handler tests rice and finds the presence of genetically engineered materials, the rice will not be considered organic. However, if the certified operation planted what they understood to be non-GE rice, the certification status of the farm itself will not be affected.

Any questions between buyers and sellers need to be resolved at that level.

Again, please share this information with your certified producers and handlers. We will provide additional information as it becomes available.

Mark A. Bradley

Associate Deputy Administrator

USDA, AMS, TM, National Organic Program

10/11/2006